IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 372 of 2004

WITH

CIVIL APPLICATION NO. 490 of 2004

Shri Assandas Choitram Kakari .. Appellant

versus

Rajesh Shankar Rao Pawar & Anr. .. Respondents

...

Mr.V.M. Punjabi for the appellant.

CORAM : B.H. MARLAPALLE,J

DATED : 4th October 2005

P.C.:

1. Notice of Motion no.133 of 2004 filed in S.C. Suit no.230 of 2004 was made absolute by the Learned Judge of the City Civil Court vide his order dated 31st January 2004 and the said order has been challenged in this appeal by the plaintiff himself. Prayer clause (a) of the said notice of motion reads as under :-

> "That the permanent order of injunction be passed by this Hon’ble court against defendants No.1 restraining him, his servants and agents, and/or other persons acting on his behalf, from dealing with dispossessing off and/or creating third party rights and/or inducting any person in the said portion of room no.480, R.C. Barrack No.40, Chembur Colony, Mumbai 400 074, without due process of law.

2. With the passage of time, the prayer for temporary injunction set out in the Notice of Motion cannot be considered and therefore, this appeal need not be entertained at this juncture.

3. Appeal is dismissed in limine. Civil Application does not survive.

B.H. MARLAPALLE, J